

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:16-00144

RAFAEL GARCIA SERRATO

MEMORANDUM OPINION AND JUDGMENT ORDER

Pending before the court is the defendant's Motion for Sentence Reduction Pursuant to 3582(c)(2) (Amendment 821), filed on January 30, 2024, wherein the defendant requests, pursuant to 18 U.S.C. § 3582(c)(2) and a subsequent reduction in the applicable sentencing guideline, that his sentence be reduced, and that counsel be appointed to represent him in his request for relief.

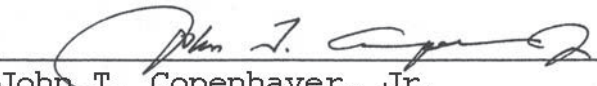
On November 1, 2023, a multi-part criminal history amendment designated as Amendment 821 in Appendix C to the *Guidelines Manual* became effective. Part A of the amendment addresses status points (additional criminal history points added for having committed the instant offense while under a criminal justice sentence), decreasing them by one point for individuals with seven or more criminal history points (excluding status points) and eliminating status points for

those with six or fewer criminal history points. Subpart 1 of Part B creates a new §4C1.1 guideline that provides a decrease of two offense levels for "Zero-Point Offenders" (those with no criminal history points) whose offense did not involve specified aggravating factors. Parts A and B, subpart 1 of the criminal history amendment both have retroactive effect.

Inasmuch as the defendant, when sentenced herein on April 19, 2017, was not assessed any status points (rather his Criminal History Category of II is based on two criminal history points for a prior conviction, none of which are status points), and inasmuch as the defendant's two criminal history points indicates he is not a Zero-Point offender, his Motion for reduction of sentence and appointment of counsel is hereby ORDERED denied.

The Court DIRECTS the Clerk to send a copy of this Order to Defendant, the United States Attorney, the United States Probation Office, and the United States Marshals.

ENTER: June 3, 2024

  
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John T. Copenhaver, Jr.  
Senior United States District Judge